

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 264 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and Sd/-

MR.JUSTICE R.P.DHOLAKIA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?  
1 to 5 - No

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ARIFBHAI KHALIDBHAI SHAIKH

Versus

STATE OF GUJARAT

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Appearance:

MR G RAMAKRISHNAN for Petitioner

MR DN PATEL, ADDL. GOVT. PLEADER for the State

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 07/04/98

ORAL JUDGEMENT (Per: B.C.Patel,J.)

The petitioner, who is facing a charge for kidnapping a minor girl-Bilkishbanu, has approached this Court for custody of said Bilkishbanu on the allegation

that she attained the age of majority even before she married with the petitioner. The learned advocate for the petitioner contended that she was beaten by her parents and for which, a complaint has also been forwarded by her on 31-3-1998. The copy which is produced before us is not a copy of FIR, but a copy of an application forwarded, which is in the handwriting of someone else and is alleged to have been signed by Bilkishbanu.

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#. It is required to be noted that the petitioner has been released on bail by the Court of competent jurisdiction in a serious offence like this. We would not have referred this aspect, but for the fact that before this Court, Annexure-D is produced which is dated 24-3-1998, that is a declaration on oath before the Notary Public on 24-3-1998. The stamp of this affirmation is purchased by her from General Stamp Office, Ahmedabad and same is got typed and affirmed thereafter. The General Stamp Office does not remain open for 24 hours, hence she must have gone to that office during the office hours, may be at 11 or 11.30. After someone got this affidavit typed, she must have been taken before the Notary Public for affirmation, if that document is signed by her. Contents of affidavit are typed in English and the same is explained to the deponent of that affidavit, namely, Bilkishbanu and she has been identified by an advocate. Said advocate has put the stamp to the aforesaid extent and has also put his signature. Thus, even this document shows that on 24-3-1998 she was free, she has gone out and has purchased stamp, met the learned advocate and appeared before Notary Public. It is also required to be noted that Annexure-C is a letter produced by the petitioner wherein it is clearly pointed out that as per the contents of the letter, the petitioner was invited to have a meeting with the minor Bilkishbanu near Gandhi Kothi. This clearly indicates that she is free to go anywhere she likes.

#. We are told by the learned advocate appearing for the petitioner that a charge is framed by the learned City Sessions Judge, Court No.4, Ahmedabad, against the petitioner for kidnapping the minor girl-Bilkishbanu and thus, the case is awaiting for trial. It appears that, liberty has been misused by the petitioner and he has tampered with the prosecution evidence. How this petitioner came in possession of this affidavit? If she is free to move anywhere she likes, then, the petition is required to be rejected. If she has been again induced

to sworn the said affidavit Annx.`D', then the matter is much serious and for which, we think that the City Sessions Judge, Ahmedabad (Court No.4) should take up the matter immediately.

#. We direct the registry to forward the original Annexure-D, which is placed on record, to the City Sessions Judge, Ahmedabad (Court No.4) for taking appropriate action in the matter if he thinks it fit and proper.

#. With the aforesaid direction, the petition stands rejected.

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